TITLE 30.—MINERAL LANDS AND MINING

Chap. Sec.
24. Geothermal Energy Research, Development, and Demonstration [New]..... 1101

Chapter 3A.—LEASES AND PROSPECTING PERMITS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 section 460dd–2; title 25 sections 459c, 459d; title 43 section 1608.

§ 185. Rights-of-way for pipelines through Federal lands.

(a) Grant of authority.

Rights-of-way through any Federal lands may be granted by the Secretary of the Interior or appropriate agency head for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom to any applicant possessing the qualifications provided in section 181 of this title in accordance with the provisions of this section.

(b) Definitions.

(1) For the purposes of this section "Federal lands" means all lands owned by the United States except lands in the National Park System, lands held in trust for an Indian or Indian tribe, and lands on the Outer Continental Shelf. A right-of-way through a Federal reservation shall not be granted if the Secretary or agency head determines that it would be inconsistent with the purposes of the reservation.

(2) "Secretary" means the Secretary of the Interior.

(3) "Agency head" means the head of any Federal department or independent Federal office or agency, other than the Secretary of the Interior, which has jurisdiction over Federal lands.

(c) Inter-agency coordination.

(1) Where the surface of all of the Federal lands involved in a proposed right-of-way or permit is under the jurisdiction of one Federal agency, the agency head, rather than the Secretary, is authorized to grant or renew the right-of-way or permit for the purposes set forth in this section.

(2) Where the surface of the Federal lands involved is administered by the Secretary or by two or more Federal agencies, the Secretary is authorized, after consultation with the agencies involved, to grant or renew rights-of-way or permits through the Federal lands involved. The Secretary may enter into interagency agreements with all other Federal agencies having jurisdiction over Federal lands for the purpose of avoiding duplication, assigning responsibility, expediting review of rights-of-way or permit applications, issuing joint regulations, and assuring a decision based upon a comprehensive review of all factors involved in any right-of-way or permit application. Each agency head shall administer and enforce the provisions of this section, appropriate regulations, and the terms and conditions of rights-of-way or permits insofar as they involve Federal lands under the agency head's jurisdiction.

(d) Width limitations.

The width of a right-of-way shall not exceed fifty feet plus the ground occupied by the pipeline (that is, the pipe and its related facilities) unless the Secretary or agency head finds, and records the reasons for his finding, that in his judgment a wider right-of-way is necessary for operation and maintenance after construction, or to protect the environment or public safety. Related facilities include but are not limited to valves, pump stations, supporting structures, bridges, monitoring and communication devices, surge and storage tanks, terminals, roads, airstrips and campsites and they need not necessarily be connected or contiguous to the pipe and may be the subjects of separate rights-of-way.

(e) Temporary permits.

A right-of-way may be supplemented by such temporary permits for the use of Federal lands in the vicinity of the pipeline as the Secretary or agency head finds are necessary in connection with construction, operation, maintenance, or termination of the pipeline, or to protect the natural environment or public safety.

(f) Regulatory authority.

Rights-of-way or permits granted or renewed pursuant to this section shall be subject to regulations promulgated in accord with the provisions of this section and shall be subject to such terms and conditions as the Secretary or agency head may prescribe regarding extent, duration, survey, location, construction, operation, maintenance use and termination.

(g) Pipeline safety.

The Secretary or agency head shall impose requirements for the operation of the pipeline and related facilities in a manner that will protect the safety of workers and protect the public from sudden ruptures and slow degradation of the pipeline.

(h) Environmental protection.

(1) Nothing in this section shall be construed to amend, repeal, modify, or change in any way the requirements of section 4332(2)(C) of Title 42 or any other provision of the National Environmental Policy Act of 1969.

(2) The Secretary or agency head, prior to granting a right-of-way or permit pursuant to this section for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way or permit which shall comply with this section. The Secretary or agency head shall issue regulations or impose stipulations which shall include, but shall not be

limited to: (A) requirements for restoration, revegetation, and curtailment of erosion of the surface of the land; (B) requirements to insure that activities in connection with the right-of-way or permit will not violate applicable air and water quality standards nor related facility siting standards established by or pursuant to law; (C) requirements designed to control or prevent (i) damage to the environment (including damage to fish and wildlife habitat), (ii) damage to public or private property, and (iii) hazards to public health and safety; and (D) requirements to protect the interests of individuals living in the general area of the right-of-way or permit who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes. Such regulations shall be applicable to every right-of-way or permit granted pursuant to this section, and may be made applicable by the Secretary or agency head to existing rights-of-way or permits, or rights-of-way or permits to be renewed pursuant to this section.

(i) Disclosure.

If the applicant is a partnership, corporation, association, or other business entity, the Secretary or agency head shall require the applicant to disclose the identity of the participants in the entity. Such disclosure shall include where applicable (1) the name and address of each partner, (2) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote, and (3) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

(j) Technical and financial capability.

The Secretary or agency head shall grant or renew a right-of-way or permit under this section only when he is satisfied that the applicant has the technical and financial capability to construct, operate, maintain, and terminate the project for which the right-of-way or permit is requested in accordance with the requirements of this section.

(k) Public hearings.

The Secretary or agency head by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local government agencies and the public adequate notice and an opportunity to comment upon right-of-way applications filed after the date of enactment of this subsection.

(*l*) Reimbursement of costs.

The applicant for a right-of-way or permit shall reimburse the United States for administrative and other costs incurred in processing the application, and the holder of a right-of-way or permit shall reimburse the United States for the costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities on such right-of-way or permit area and shall pay annually in advance the fair market rental value of the right-of-way or permit, as determined by the Secretary or agency head.

(m) Bonding.

Where he deems it appropriate the Secretary or agency head may require a holder of a right-of-way or permit to furnish a bond, or other security, satisfactory to the Secretary or agency head to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or permit or by any rule or regulation of the Secretary or agency head.

(n) Duration of grant.

Each right-of-way or permit granted or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project, but in no event more than thirty years. In determining the duration of a right-of-way the Secretary or agency head shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The Secretary or agency head shall renew any right-of-way, in accordance with the provisions of this section, so long as the project is in commercial operation and is operated and maintained in accordance with all of the provisions of this section.

(o) Suspension or termination of right-of-way.

(1) Abandonment of a right-of-way or noncompliance with any provision of this section may be grounds for suspension or termination of the right-of-way if (A) after due notice to the holder of the right-of-way, (B) a reasonable opportunity to comply with this section, and (C) an appropriate administrative proceeding pursuant to section 554 of Title 5, the Secretary or agency head determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed upon condition, event, or time.

(2) If the Secretary or agency head determines that an immediate temporary suspension of activities within a right-of-way or permit area is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding.

(3) Deliberate failure of the holder to use the right-of-way for the purpose for which it was granted or renewed for any continuous two-year period shall constitute a rebuttable presumption of abandonment of the right-of-way: *Provided,* That where the failure to use the right-of-way is due to circumstances not within the holder's control the Secretary or agency head is not required to commence proceedings to suspend or terminate the right-of-way.

(p) Joint use of rights-of-way.

In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way across Federal lands, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary or agency head the right to grant additional rights-of-way or permits for compatible uses

on or adjacent to rights-of-way or permit area granted pursuant to this section.

(q) Statutes.

No rights-of-way for the purposes provided for in this section shall be granted or renewed across Federal lands except under and subject to the provisions, limitations, and conditions of this section. Any application for a right-of-way filed under any other law prior to the effective date of this provision may, at the applicant's option, be considered as an application under this section. The Secretary or agency head may require the applicant to submit any additional information he deems necessary to comply with the requirements of this section.

(r) Common carriers.

(1) Pipelines and related facilities authorized under this section shall be constructed, operated, and maintained as common carriers.

(2) (A) The owners or operators of pipelines subject to this section shall accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or non-Federal lands.

(B) In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline, the Secretary may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported or purchased.

(3) (A) The common carrier provisions of this section shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality.

(B) Where natural gas not subject to State regulatory or conservation laws governing its purchase by pipelines is offered for sale, each such pipeline shall purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline.

(4) The Government shall in express terms reserve and shall provide in every lease of oil lands under this chapter that the lessee, assignee, or beneficiary, if owner or operator of a controlling interest in any pipeline or of any company operating the pipeline which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without discrimination accept and convey the oil of the Government or of any citizen or company not the owner of any pipeline operating a lease or purchasing gas or oil under the provisions of this chapter.

(5) Whenever the Secretary has reason to believe that any owner or operator subject to this section is not operating any oil or gas pipeline in complete accord with its obligations as a common carrier hereunder, he may request the Attorney General to prosecute an appropriate proceeding before the Interstate Commerce Commission or Federal Power Commission or any appropriate State agency or the United States district court for the district in which the pipeline or any part thereof is located, to enforce such obligation or to impose any penalty provided therefor, or the Secretary may, by proceeding as provided in this section, suspend or terminate the said grant of right-of-way for noncompliance with the provisions of this section.

(6) The Secretary or agency head shall require, prior to granting or renewing a right-of-way, that the applicant submit and disclose all plans, contracts, agreements, or other information or material which he deems necessary to determine whether a right-of-way shall be granted or renewed and the terms and conditions which should be included in the right-of-way. Such information may include, but is not limited to: (A) conditions for, and agreements among owners or operators, regarding the addition of pumping facilities, looping, or otherwise increasing the pipeline or terminal's throughput capacity in response to actual or anticipated increases in demand; (B) conditions for adding or abandoning intake, offtake, or storage points or facilities; and (C) minimum shipment or purchase tenders.

(s) Right-of-way corridors.

In order to minimize adverse environmental impacts and to prevent the proliferation of separate rights-of-way across Federal lands, the Secretary shall, in consultation with other Federal and State agencies, review the need for a national system of transportation and utility corridors across Federal lands and submit a report of his findings and recommendations to the Congress and the President by July 1, 1975.

(t) Existing rights-of-way.

The Secretary or agency head may ratify and confirm any right-of-way or permit for an oil or gas pipeline or related facility that was granted under any provision of law before the effective date of this subsection, if it is modified by mutual agreement to comply to the extent practical with the provisions of this section. Any action taken by the Secretary or agency head pursuant to this subsection shall not be considered a major Federal action requiring a detailed statement pursuant to section 4332(2)(C) of Title 42.

(u) Limitations on export.

Any domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to this setcion, except such crude oil which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1969 and, in addition, before any crude oil subject to this section may be exported under the limitations and licensing requirements and penalty and enforcement provisions of the Export Administration Act of 1969 the President must make and publish an express finding that such exports will not diminish the total quantity or quality of petroleum available to the United States, and are in the national interest and are in accord with the provisions

of the Export Administration Act of 1969: *Provided,* That the President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.

(v) State standards.

The Secretary or agency head shall take into consideration and to the extent practical comply with State standards for right-of-way construction, operation, and maintenance.

(w) Reports.

(1) The Secretary and other appropriate agency heads shall report to the House and Senate Committees on Interior and Insular Affairs annually on the administration of this section and on the safety and environmental requirements imposed pursuant thereto.

(2) The Secretary or agency head shall notify the House and Senate Committees on Interior and Insular Affairs promptly upon receipt of an application for a right-of-way for a pipeline twenty-four inches or more in diameter, and no right-of-way for such a pipeline shall be granted until sixty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after a notice of intention to grant the right-of-way, together with the Secretary's or agency head's detailed findings as to terms and conditions he proposes to impose, has been submitted to such committees, unless each committee by resolution waives the waiting period.

(3) Periodically, but at least once a year, the Secretary of the Department of Transportation shall cause the examination of all pipelines and associated facilities on Federal lands and shall cause the prompt reporting of any potential leaks or safety problems.

(4) The Secretary of the Department of Transportation shall report annually to the President, the Congress, the Secretary of the Interior, and the Interstate Commerce Commission any potential dangers of or actual explosions, or potential or actual spillage on Federal lands and shall include in such report a statement of corrective action taken to prevent such explosion or spillage.

(x) Liability.

(1) The Secretary or agency head shall promulgate regulations and may impose stipulations specifying the extent to which holders of rights-of-way and permits under this chapter shall be liable to the United States for damage or injury incurred by the United States in connection with the right-of-way or permit. Where the right-of-way or permit involves lands which are under the exclusive jurisdiction of the Federal Government, the Secretary or agency head shall promulgate regulations specifying the extent to which holders shall be liable to third parties for injuries incurred in connection with the right-of-way or permit.

(2) The Secretary or agency head may, by regulation or stipulation, impose a standard of strict liability to govern activities taking place on a right-of-way or permit area which the Secretary or agency head determines, in his discretion, to present a foreseeable hazard or risk of danger to the United States.

(3) Regulations and stipulations pursuant to this subsection shall not impose strict liability for damage or injury resulting from (A) an act of war, or (B) negligence of the United States.

(4) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(5) The regulations and stipulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liability, damage, or claims arising in connection with the right-of-way or permit.

(6) Any regulation or stipulation promulgated or imposed pursuant to this section shall provide that all owners of any interest in, and all affiliates or subsidiaries of any holder of, a right-of-way or permit shall be liable to the United States in the event that a claim for damage or injury cannot be collected from the holder.

(7) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

(y) Antitrust laws.

The grant of a right-of-way or permit pursuant to this section shall grant no immunity from the operation of the Federal antitrust laws. (As amended Nov. 16, 1973, Pub. L. 93–153, title I, § 101, 87 Stat. 576.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (h)(1), is Pub. L. 91–190, which is classified to section 4321 et seq. of Title 42, The Public Health and Welfare.

The effective date of this provision, referred to in subsec. (q), probably means Nov. 16, 1973, the date on which Pub. L. 93–153, which completely rewrote this section, was approved.

The Natural Gas Act, refered to in subsec. (r)(3)(A), is classified to section 717 et seq. of Title 15, Commerce and Trade.

The effective date of this subsection, referred to in subsec. (t), probably means Nov. 16, 1973, the date on which Pub. L. 93–153, which enacted subsec. (t), was approved.

The Export Administration Act of 1969, refererd to in subsec. (u), is classified to section 2401 et seq. of the Appendix to Title 50, War and National Defense.

The federal antitrust laws, referred to in subsec. (y), are classified generally to section 1 et seq. of Title 15.

AMENDMENTS

1973—Pub. L. 93–153 completely rewrote the section substituting 25 subsecs. lettered (a) through (y) covering all aspects of the granting of rights-of-way for pipelines through Federal lands for the former single unlettered paragraph under which rights-of-way of 25 feet on each side of the pipeline could be granted and under which the pipeline was to be operated as a common carrier.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 236a, 275, 285 of this title; title 10 sections 7421, 7435; title 33 section 1522; title 42 section 6271; title 43 section 1652.

Chapter 7.—LEASE OF MINERAL DEPOSITS WITHIN ACQUIRED LANDS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 section 460dd–2.

§ 354. Lease of partial or future interests in deposits.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 459c.

§ 355. Disposition of receipts.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 459d.

Chapter 8.—DEVELOPMENT OF LIGNITE COAL RESOURCES

§ 403. Repealed. Pub. L. 93–608, § 1(12), Jan. 2, 1975, 88 Stat. 1969.

Section, act Mar. 25, 1948, ch. 146, § 3, 62 Stat. 85, required the Secretary of the Interior, acting through the Bureau of Mines, to report to Congress on the activities, expenditures, etc., of the laboratory.

§ 404. Establishment of an advisory council; composition and appointment.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

Chapter 14.—ANTHRACITE MINE DRAINAGE AND FLOOD CONTROL

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 40 App., section 205.

§ 572. United States contributions to Pennsylvania—Authority; conditions; limitations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 App., section 205.

Chapter 17.—EXPLORATION PROGRAM FOR DISCOVERY OF MINERALS

§ 645. Repealed. Pub. L. 93–608, § 1(13), Jan. 2, 1975, 88 Stat. 1969.

Section, Pub. L. 85–701, § 5, Aug. 21, 1958, 72 Stat. 701, required the Secretary of the Interior to report to the Congress on the operations of programs authorized pursuant to this chapter.

Chapter 18.—COAL RESEARCH AND DEVELOPMENT

§§ 661 to 668.

TRANSFER OF FUNCTIONS

Functions of the Secretary of the Interior, the Department of the Interior, and officers and components of such Department, relating to or utilized by the Office of Coal Research, transferred and vested in the Administrator, Energy Research and Development Administration, see section 5814(e) of Title 42, The Public Health and Welfare.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 42 section 5814.

Chapter 21.—METAL AND NONMETALLIC MINE SAFETY

§ 726. Advisory committees.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

Chapter 22.—COAL MINE HEALTH AND SAFETY

SUBCHAPTER IV.—BLACK LUNG BENEFITS

PART B.—CLAIMS FOR BENEFITS FILED ON OR BEFORE DECEMBER 31, 1973

Sec.

925. Procedure for the determination of claims during transition period [New].

PART C.—CLAIMS FOR BENEFITS AFTER DECEMBER 31, 1973

937. Contracts for clinics; research and grants for research in pulmonary diseases; appropriation of funds [New].

938. Prohibition of discrimination by operators of miners suffering from pneumoconiosis; determination by Secretary; procedure; costs and penalties [New].

939. Authorization of appropriations [New].

940. Availability of benefits under Black Lung Benefits Act of 1972 [New].

941. Notification to claimants of changes in law [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 6211.

SUBCHAPTER I.—HEALTH AND SAFETY STANDARDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 938 of this title.

§ 812. Advisory committees.

TRANSFER OF FUNCTIONS

All functions vested by law in the Office of Science and Technology and in the Director or Deputy Director of the Office of Science and Technology were transferred to the Director of the National Science Foundation, and the Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of 1962 Reorg. Plan No. 2, was abolished by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER II.—INTERIM MANDATORY HEALTH STANDARDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 938 of this title.

SUBCHAPTER III.—INTERIM MANDATORY SAFETY STANDARDS FOR UNDERGROUND COAL MINES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 938 of this title.

SUBCHAPTER IV.—BLACK LUNG BENEFITS

PART A.—GENERAL PROVISIONS

§ 901. Congressional findings and declaration of purpose.

Congress finds and declares that there are a significant number of coal miners living today who are totally disabled due to pneumoconiosis arising out of employment in one or more of the Nation's coal mines; that there are a number of survivors of coal miners whose deaths were due to this disease or who were totally disabled by this disease at the time of their deaths; and that few States provide benefits for death or disability due to this disease or who were totally disabled by this disease at the time of their deaths to coal miners or their surviving dependents. It is, therefore, the purpose of this subchapter to provide benefits, in cooperation with the States, to coal miners who are totally disabled due to pneumoconiosis and to the surviving dependents of miners whose death was due to such disease or who were totally disabled by this disease at the time of their deaths; and to ensure that in the future adequate benefits are provided to coal miners and their dependents in the event of their death or total disability due to pneumoconiosis. (As amended Pub. L. 92–303, §§ 3(a), 4(b)(2), May 19, 1972, 86 Stat. 153, 154.)

AMENDMENTS

1972—Pub. L. 92–303 substituted "coal mines" for "underground coal mines", and "disease or who were totally disabled by this disease at the time of their deaths" for "disease" in three places.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 3(c) of Pub. L. 92–303 provided that: "The amendments made by this section [amending this section and sections 902, 921, 932, and 933 of this title] shall be effective as of December 30, 1969."

Amendment by section 4(b)(2) of Pub. L. 92–303 effective Dec. 30, 1969, see section 4(g) of Pub. L. 92–303 set out as a note under section 921 of this title.

SHORT TITLE

Section 1(a) of Pub. L. 92–303 provided that: "[T]his Act [enacting sections 925, 937 to 941 of this title, amending this section and sections 902, 921, 922, 923, 924, 931, 932, 933, 934, 936 and 951 of this title, and enacting provisions set out as notes under sections 921, 922, and 923 of this title] may be cited as the 'Black Lung Benefits Act of 1972'."

§ 902. Definitions.

(a) The term "dependent" means—

(1) a child as defined in subsection (g) of this section without regard to subparagraph (2)(B)(ii) thereof; or

(2) a wife who is a member of the same household as the miner, or is receiving regular contributions from the miner for her support, or whose husband is a miner who has been ordered by a court to contribute to her support, or who meets the requirements of section 416(b)(1) or (2) of Title 42. The determination of an individual's status as the "wife" of a miner shall be made in accordance with section 416(h)(1) of Title 42, as if such miner were the "insured individual" referred to therein. The term "wife" also includes a "divorced wife" as defined in section 416(d)(1) of Title 42 who is receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or is receiving substantial contributions from the miner (pursuant to a written agreement), or there is in effect a court order for substantial contributions to her support from such miner.

(b) The term "pneumoconiosis" means a chronic dust disease of the lung arising out of employment in a coal mine.

* * * * *

(d) The term "miner" means any individual who is or was employed in a coal mine.

(e) The term "widow" includes the wife living with or dependent for support on the miner at the time of his death, or living apart for reasonable cause or because of his desertion, or who meets the requirements of section 416(c)(1), (2), (3), (4), or (5), and section 416(k) of Title 42, who is not married. The determination of an individual's status as the "widow" of a miner shall be made in accordance with section 416(h)(1) of Title 42 as if such miner were the "insured individual" referred to therein. Such term also includes a "surviving divorced wife" as defined in section 416(d)(2) of Title 42 who for the month preceding the month in which the miner died, was receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or was receiving substantial contributions from the miner (pursuant to a written agreement) or there was in effect a court order for substantial contributions to her support from the miner at the time of his death.

(f) The term "total disability" has the meaning given it by regulations of the Secretary of Health, Education, and Welfare, except that such regulations shall provide that a miner shall be considered totally disabled when pneumoconiosis prevents him from engaging in gainful employment requiring the skills and abilities comparable to those of any employment in a mine or mines in which he previously engaged with some regularity and over a substantial period of time. Such regulations shall not provide more restrictive criteria than those applicable under section 423(d) of Title 42.

(g) The term "child" means a child or a step-child who is—

(1) unmarried; and

(2)(A) under eighteen years of age, or

(B)(i) under a disability as defined in section 423(d) of Title 42,

(ii) which began before the age specified in section 402(d)(1)(B)(ii) of Title 42, or, in the case of a student, before he ceased to be a student; or

(C) a student.

The term "student" means a "full-time student" as defined in section 402(d)(7) of Title 42, or a "student" as defined in section 8101(17) of Title 5. The determination of an individual's status as the "child" of the miner or widow, as the case may be, shall be made in accordance with section 416(h)(2) or (3)

of Title 42 as if such miner or widow were the "insured individual" referred to therein. (As amended Pub. L. 92–303, §§ 1(c)(2)–(4), 3(b), 4(a), May 19, 1972, 86 Stat. 151–153.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–303, § 1(c)(2), expanded the definition of "dependent" to include children and wife without reference to section 8110 of Title 5.

Subsec. (b). Pub. L. 92–303, § 3(b), substituted "a coal mine" for "an underground coal mine".

Subsec. (d). Pub. L. 92–303, § 3(b), substituted "a coal mine" for "an underground coal mine".

Subsec. (e). Pub. L. 92–303, § 1(c)(3), expanded the definition of "widow" by reference to Title 42 and provided procedure for the determination of the status.

Subsec. (f). Pub. L. 92–303, § 4(a), expanded the definition of "total disability" to include a miner prevented from engaging in gainful employment by pneumoconiosis.

Subsec. (g). Pub. L. 92–303, § 1(c)(4), added subsec. (g).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsecs. (b) and (d) by section 3(b) of Pub. L. 92–303 effective December 30, 1969, see section 3(c) of Pub. L. 92–303, set out as a note under section 901 of this title.

Amendment of subsec. (f) by section 4(a) of Pub. L. 92–303 effective Dec. 30, 1969, see section 4(g) of Pub. L. 92–303, set out as a note under section 921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 922, 931 of this title.

PART B.—CLAIMS FOR BENEFITS FILED ON OR BEFORE DECEMBER, 31, 1973

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 931, 936, 940 of this title.

§ 921. Regulations and presumptions.

(a) Promulgation; payment of benefits.

The Secretary shall, in accordance with the provisions of this part, and the regulations promulgated by him under this part, make payments of benefits in respect of total disability of any miner due to pneumoconiosis, and in respect of the death of any miner whose death was due to pneumoconiosis or who at the time of his death was totally disabled by pneumoconiosis.

(b) Promulgation of standards determining total disability.

The Secretary shall by regulation prescribe standards for determining for purposes of subsection (a) of this section whether a miner is totally disabled due to pneumoconiosis and for determining whether the death of a miner was due to pneumoconiosis. Regulations required by this subsection shall be promulgated and published in the Federal Register at the earliest practicable date after December 30, 1969, and in no event later than the end of the third month following December 1969. Final regulations required for implementation of any amendments to this subchapter shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of such amendments, and in no event later than the end of the fourth month following the month in which such amendments are enacted. Such regulations may be modified or additional regulations promulgated from time to time thereafter.

(c) Particular rebuttable presumptions.

For purposes of this section—

(1) if a miner who is suffering or suffered from pneumoconiosis was employed for ten years or more in one or more coal mines there shall be a rebuttable presumption that his pneumoconiosis arose out of such employment;

(2) if a deceased miner was employed for ten years or more in one or more coal mines and died from a respirable disease there shall be a rebuttable presumption that his death was due to pneumoconiosis;

(3) if a miner is suffering or suffered from a chronic dust disease of the lung which (A) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one centimeter in diameter) and would be classified in category A, B, or C in the International Classification of Radiographs of the Pneumoconioses by the International Labor Organization, (B) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (C) when diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in clause (A) or (B) if diagnosis had been made in the manner prescribed in clause (A) or (B), then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis or that at the time of his death he was totally disabled by pneumoconiosis, as the case may be; and

(4) if a miner was employed for fifteen years or more in one or more underground coal mines, and if there is a chest roentgenogram submitted in connection with such miner's, his widow's, his child's, his parent's, his brother's, his sister's, or his dependent's claim under this subchapter and it is interpreted as negative with respect to the requirements of paragraph (3) of this subsection, and if other evidence demonstrates the existence of a totally disabling respiratory or pulmonary impairment, then there shall be a rebuttable presumption that such miner is totally disabled due to pneumoconiosis, that his death was due to pneumoconiosis, or that at the time of his death he was totally disabled by pneumoconiosis. In the case of a living miner, a wife's affidavit may not be used by itself to establish the presumption. The Secretary shall not apply all or a portion of the requirement of this paragraph that the miner work in an underground mine where he determines that conditions of a miner's employment in a coal mine other than an underground mine were substantially similar to conditions in an underground mine. The Secretary may rebut such presumption only by establishing that (A) such miner does not, or did not, have pneumoconiosis, or that (B) his respiratory or pulmonary impairment did not arise out of, or in connection with, employment in a coal mine.

• • • • •

(As amended Pub. L. 92–303, §§ 3(a), 4(b)(1), (3), (c), (d), May 19, 1972, 86 Stat. 153, 154.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–303, § 4(b)(1), substituted "pneumoconiosis or who at the time of his death was totally disabled by pneumoconiosis" for "pneumoconiosis".

Subsec. (b). Pub. L. 92–303, § 4(d), added provision for the promulgation and publication in the FEDERAL REGISTER of final regulations and their amendments and for time limits for publication.

Subsec. (c)(1). Pub. L. 92–303, § 3(a), substituted "coal mines" for "underground coal mines".

Subsec. (c)(2). Pub. L. 92–303, § 3(a), substituted "coal mines" for "underground coal mines".

Subsec. (c)(3). Pub. L. 92–303, § 4(b)(3), added presumption that at the time of death the miner was totally disabled by pneumoconiosis.

Subsec. (c)(4). Pub. L. 92–303, § 4(c), added par. (4).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 4(g) of Pub. L. 92–303 provided that: "The amendments made by this section [amending this section and sections 901, 902, 923 and 931 of this title] shall be effective as of December 30, 1969."

Amendment of subsec. (c)(1), (2) by section 3(a) of Pub. L. 92–303 effective Dec. 30, 1969, see section 3(c) of Pub. L. 92–303, set out as a note under section 901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 932, 940 of this title.

§ 922. Payment of benefits.

(a) Schedules.

Subject to the provisions of subsection (b) of this section, benefit payments shall be made by the Secretary under this part as follows:

* * * * *

(3) In the case of the child or children of a miner whose death is due to pneumoconiosis or of a miner who is receiving benefits under this part at the time of his death, or who was totally disabled by pneumoconiosis at the time of his death, and in the case of the child or children of a widow who is receiving benefits under this part at the time of her death, benefits shall be paid to such child or children as follows: If there is one such child, he shall be paid benefits at the rate specified in paragraph (1). If there is more than one such child, the benefits paid shall be divided equally among them and shall be paid at a rate equal to the rate specified in paragraph (1), increased by 50 per centum of such rate if there are two such children, by 75 per centum of such rate if there are three such children, and by 100 per centum of such rate if there are more than three such children: *Provided,* That benefits shall only be paid to a child for so long as he meets the criteria for the term "child" contained in section 902(g) of this title: *And provided further,* That no entitlement to benefits as a child shall be established under this paragraph (3) for any month for which entitlement to benefits as a widow is established under paragraph (2).

(4) In the case of an individual entitled to benefit payments under clause (1) or (2) of this subsection who has one or more dependents, the benefit payments shall be increased at the rate of 50 per centum of such benefit payments, if such individual has one dependent, 75 per centum if such individual has two dependents, and 100 per centum if such individual has three or more dependents.

(5) In the case of the dependent parent or parents of a miner whose death is due to pneumoconiosis, or of a miner who is receiving benefits under this part at the time of his death, or of a miner who was totally disabled by pneumoconiosis at the time of death, and who is not survived at the time of his death by a widow or a child, or in the case of the dependent surviving brother(s) or sister(s) of such a miner who is not survived at the time of his death by a widow, child, or parent, benefits shall be paid under this part to such parent(s), or to such brother(s), or sister(s), at the rate specified in paragraph (3) (as if such parent(s) or such brother(s) or sister(s), were the children of such miner). In determining for purposes of this paragraph whether a claimant bears the relationship as the miner's parent, brother, or sister, the Secretary shall apply legal standards consistent with those applicable to relationship determination under subchapter II of chapter 7 of Title 42. No benefits to a sister or brother shall be payable under this paragraph for any month beginning with the month in which he or she receives support from his or her spouse, or marries. Benefits shall be payable under this paragraph to a brother only if he is—

(1)(A) under eighteen years of age, or

(B) under a disability as defined in section 423(d) of Title 42 which began before the age specified in section 402(d)(1)(B)(ii) of Title 42, or in the case of a student, before he ceased to be a student, or

(C) a student as defined in section 902(g) of this title; or

(2) who is, at the time of the miner's death, disabled as determined in accordance with section 423(d) of Title 42, during such disability. Any benefit under this paragraph for a month prior to the month in which a claim for such benefit is filed shall be reduced to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such claim, the Secretary has certified for payment for such prior months. As used in this paragraph, "dependent" means that during the one year period prior to and ending with such miner's death, such parent, brother, or sister was living in the miner's household, and was, during such period, totally dependent on the miner for support. Proof of such support shall be filed by such claimant within two years after May 1972, or within two years after the miner's death, whichever is the later. Any such proof which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof within such period. The determination of what constitutes "living in the miner's household", "totally dependent upon the miner for support," and "good cause," shall for purposes of this paragraph be made in accordance with regulations of the Secretary. Benefit payments under this paragraph to a parent, brother, or sister, shall be reduced by the amount by which such payments would be reduced on account of excess earnings of such parent, brother, or sister, respectively, under

section 403(b)(1) of Title 42, as if the benefit under this paragraph were a benefit under section 402 of Title 42.

(6) If an individual's benefits would be increased under paragraph (4) of this subsection because he or she has one or more dependents, and it appears to the Secretary that it would be in the interest of any such dependent to have the amount of such increase in benefits (to the extent attributable to such dependent) certified to a person other than such individual, then the Secretary may, under regulations prescribed by him, certify the amount of such increase in benefits (to the extent so attributable) not to such individual but directly to such dependent or to another person for the use and benefit of such dependent; and any payment made under this clause, if otherwise valid under this subchapter, shall be a complete settlement and satisfaction of all claims, rights, and interests in and to such payment.

(b) Reduction of benefits.

Notwithstanding subsection (a) of this section, benefit payments under this section to a miner or his widow, child, parent, brother, or sister shall be reduced, on a monthly or other appropriate basis, by an amount equal to any payment received by such miner or his widow, child, parent, brother, or sister under the workmen's compensation, unemployment compensation, or disability insurance laws of his State on account of the disability of such miner, and the amount by which such payment would be reduced on account of excess earnings of such miner under section 403(b) through (*l*) of Title 42, if the amount paid were a benefit payable under section 402 of Title 42. This part shall not be considered a workmen's compensation law or plan for purposes of section 424a of Title 42.

* * * * *

(As amended Pub. L. 92–303, §§ 1(b)(1), (2), (c)(1), 2(a), May 19, 1972, 86 Stat. 150, 151, 153.)

AMENDMENTS

1972—Subsec. (a)(3). Pub. L. 92–303, § 1(b)(1), added par. (3). Former par. (3) was redesignated as par. (4).

Subsec. (a)(4). Pub. L. 92–303, § 1(b)(1) redesignated former par. (3) as par. (4).

Subsec. (a)(5). Pub. L. 92–303, § 1(b)(2), added par. (5).

Subsec. (a)(6). Pub. L. 92–303, § 1(b)(2), added par. (6).

Subsec. (b). Pub. L. 92–303, §§ 1(c)(1), 2(a), substituted "widow, child, parent, brother, or sister" for "widow" wherever appearing, and added provision that this part would not be considered as a workmen's compensation law or plan for purposes of section 424a of Title 42.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 2(b) of Pub. L. 92–303 provided that: "The amendment made by this section [amending subsec. (b) of this section] shall be effective as of December 30, 1969."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 924, 931, 932 of this title.

§ 923. Filing of notice of claim.

(a) Promulgation of regulations; time requirement.

Except as otherwise provided in section 924 of this title, no payment of benefits shall be made under this part except pursuant to a claim filed therefor on or before December 31, 1973, in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe.

(b) Applicability of sections 404 to 408, 421 and 423 of Title 42; use of personnel and procedures; reimbursement of expenses.

In carrying out the provisions of this part, the Secretary shall to the maximum extent feasible (and consistent with the provisions of this part) utilize the personnel and procedures he uses in determining entitlement to disability isurance benefit payments under section 423 of Title 42, but no claim for benefits under this part shall be denied solely on the basis of the results of a chest roentgenogram. In determining the validity of claims under this part, all relevant evidence shall be considered, including where relevant, medical tests such as blood gas studies, X-ray examination, electrocardiogram, pulmonary function studies, or physical performance tests, and any medical history, evidence submitted by the claimant's physician, or his wife's affidavits, and in the case of a deceased miner, other appropriate affidavits of persons with knowledge of the miner's physical condition, and other supportive materials. Claimants under this part shall be reimbursed for reasonable medical expenses incurred by them in establishing their claims. For purposes of determining total disability under this part, the provisions of subsections (a), (b), (c), (d), and (g) of section 421 of Title 42 shall be applicable. The provisions of sections 404, 405(a), (b), (d), (e), (f), (g), (h), (j), (k), and (*l*), 406, 407, and 408 of Title 42 shall be applicable under this part with respect to a miner, widow, child, parent, brother, sister, or dependent, as if benefits under this part were benefits under subchapter II of chapter 7 of Title 42.

* * * * *

(As amended Pub. L. 92–303, §§ 1(c)(5)(A), 4(f), 5(2), May 19, 1972, 86 Stat. 152, 154, 155.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–303, § 5(2), substituted "1973" for "1972".

Subsec. (b). Pub. L. 92–303, §§ 1(c)(5)(A), 4(f), added provisions making sections 404 to 408 of Title 42 applicable, and for a more liberal consideration of claims for benefits.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (b) by section 4(f) of Pub. L. 92–303 effective Dec. 30, 1969, see section 4(g) of Pub. L. 92–303, set out as a note under section 921 of this title.

EFFECTIVE DATE FOR THE APPLICATION OF SECTION 405 OF TITLE 42

Section 1(c)(5)(B) of Pub. L. 92–303 provided that: "Only section 205 (b), (g), and (h) of those sections of the Social Security Act [section 405 (b), (g), and (h) of Title 42] recited in subparagraph (A) of this paragraph [amending subsec. (b) of this section] shall be effective as of the date provided in subsection (d) of this section."

There is no subsec. (d) in section 1 of Pub. L. 92–303 as it was enacted. However, Senate Report No. 92–743, at page 30, refers to such a subsec. (d) applying the provisions of section of Pub. L. 92–303 retroactively to December 30, 1969.

§ 924. Time for filing claims.

(a) Claims filed before December 31, 1973.

(1) No claim for benefits under this part on account of total disability of a miner shall be considered unless it is filed on or before December 31, 1973, or, in the case of a claimant who is a widow, within six months after the death of her husband or by December 31, 1973, whichever is the later.

(2) In the case of a claim by a child this paragraph shall apply notwithstanding any other provision of this part.

(A) If such claim is filed within six months following May 1972, and if entitlement to benefits is established pursuant to such claim, such entitlement shall be effective retroactively from December 30, 1969, or from the date such child would have been first eligible for such benefit payments had section 922(a)(3) of this title been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible at any period of time during the period from December 30, 1969, to the date such claim is filed, entitlement shall be effective for the duration of eligibility during such period.

(B) If such claim is filed after six months following May 1972, and if entitlement to benefits is established pursuant to such claim, such entitlement shall be effective retroactively from a date twelve months preceding the date such claim is filed, or from the date such child would have been first eligible for such benefit payments had section 922(a)(3) of this title been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible at any period of time during the period from a date twelve months preceding the date such claim is filed, to the date such claim is filed, entitlement shall be effective for the duration of eligibility during such period.

(C) No claim for benefits under this part, in the case of a claimant who is a child shall be considered unless it is filed within six months after the death of his father or mother (whichever last occurred) or by December 31, 1973, whichever is the later.

(D) Any benefit under subparagraph (A) or (B) for a month prior to the month in which a claim is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such claim, the Secretary has certified for payment for such prior month.

(3) No claim for benefits under this part, in the case of a claimant who is a parent, brother, or sister shall be considered unless it is filed within six months after the death of the miner or by December 31, 1973, whichever is the later.

(b) Filing of claims after June 30, 1973.

No benefits shall be paid under this part after December 31, 1973, if the claim therefor was filed after June 30, 1973.

* * * * *

(e) Conditions upon payment.

No benefits shall be payable to a widow, child, parent, brother, or sister under this part on account of the death of a miner unless (1) benefits under this part were being paid to such miner with respect to disability to pneumoconiosis prior to his death, or (2) the death of such miner occurred prior to January 1, 1974. (As amended Pub. L. 92-303, §§ 1(c)(1), (6), 5(1)-(3), May 19, 1972, 86 Stat. 151, 152, 155.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-303, §§ 1(c)(6), 5(2), designated existing provisions as par. (1) and added pars. (2) and (3), and in par. (1) substituted "1973" for "1972" wherever appearing.

Subsec. (b). Pub. L. 92-303, §§ 5(1), (2), substituted "June 30, 1973" for "December 31, 1971" and "1973" for "1972" wherever appearing.

Subsec. (e). Pub. L. 92-303, §§ 1(c)(1), 5(3), substituted "widow, child, parent, brother, or sister" for "widow" and "1974" for "1973", respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 923 of this title.

§ 925. Procedure for the determination of claims during transition period.

(a) Notwithstanding any other provision in this subchapter, for the purpose of assuring the uninterrupted receipt of benefits by claimants at such time as responsibility for administration of the benefits program is assumed by either a State workmen's compensation agency or the Secretary of Labor, any claim for benefits under this part filed during the period from July 1, 1973 to December 31, 1973, shall be considered and determined in accordance with the procedures of this section. With respect to any such claim—

(1) Such claim shall be determined and, where appropriate under this part or section 934 of this title, benefits shall be paid with respect to such claim by the Secretary of Labor.

(2) The manner and place of filing such claim shall be in accordance with regulations issued jointly by the Secretary of Health, Education, and Welfare and the Secretary of Labor, which regulations shall provide, among other things, that such claims may be filed in district offices of the Social Security Administration and thereafter transferred to the jurisdiction of the Department of Labor for further consideration.

(3) The Secretary of Labor shall promptly notify any operator who he believes, on the basis of information contained in the claim, or any other information available to him, may be liable to pay benefits to the claimant under part C of this subchapter for any month after December 31, 1973.

(4) In determining such claims, the Secretary of Labor shall, to the extent appropriate, follow the procedures described in subsections (b), (c), and (d) of section 919 of Title 33.

(5) Any operator who has been notified of the pendency of a claim under paragraph 4 of this subsection shall be bound by the determination of the Secretary of Labor on such claim as if the claim had been filed pursuant to part C of this subchapter and section 932 of this title had been applicable to such operator. Nothing in this paragraph shall require any operator to pay any benefits for any month prior to January 1, 1974.

(b) The Secretary of Labor, after consultation with the Secretary of Health, Education, and Welfare, may issue such regulations as are necessary or appropriate to carry out the purpose of this section. (Pub. L. 91-173, title IV, § 415, as added Pub. L. 92-303, § 7, May 19, 1972, 86 Stat. 156.)

PART C.—CLAIMS FOR BENEFITS AFTER DECEMBER 31, 1973

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 925 of this title.

§ 931. Filing for benefits under State workmen's compensation laws; adequacy of compensation; listing of States providing adequate compensation; requisites for listing; publication in the Federal Register; review of listings.

(a) On and after January 1, 1974, any claim for benefits for death or total disability due to pneumoconiosis shall be filed pursuant to the applicable State workmen's compensation law, except that during any period when miners or their surviving widows, children, parents, brothers, or sisters, as the case may be, are not covered by a State workmen's compensation law which provides adequate coverage for pneumoconiosis they shall be entitled to claim benefits under this part.

(b)(1) * * *

* * * * *

(2) The Secretary shall include a State workmen's compensation law on such list during any period only if he finds that during such period under such law—

* * * * *

(C) the standards for determining death or total disability due to pneumoconiosis are substantially equivalent to section 902(f) of this title and to those standards established under part B of this subchapter, and by the regulations of the Secretary of Health, Education, and Welfare promulgated thereunder;

* * * * *

(c) Final regulations required for implementation of any amendments to this part shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of such amendments, and in no event later than the end of the sixth month following the month in which such amendments are enacted. (As amended Pub. L. 92–303, §§ 1(c)(1), 4(e), 5(3), (5), May 19, 1972, 86 Stat. 151, 154, 155.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–303, §§ 1(c)(1), 5(3), substituted "widows, children, parents, brothers, or sisters, as the case may be," for "widows" and "1974" for "1973".

Subsec. (b)(2)(C). Pub. L. 92–303, § 4(e), substituted "section 902(f) of this title and to those standards established under part B of this subchapter" for "those established by section 921 of this title".

Subsec. (c). Pub. L. 92–303, § 5(5) added subsec. (c).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (b)(2)(C) by section 4(e) of Pub. L. 92–303 effective Dec. 30, 1969, see section 4(g) of Pub. L. 92–303, set out as a note under section 921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 932, 933 of this title.

§ 932. Failure to meet workmen's compensation requirements.

(a) Benefits; applicability of Longshoremen's and Harbor Workers' Compensation Act; promulgation of regulations.

During any period after December 31, 1973, in which a State workmen's compensation law is not included on the list published by the Secretary under section 931(b) of this title, the provisions of Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended (other than the provisions contained in sections 1, 2, 3, 4, 8, 9, 10, 12, 13, 29, 30, 31, 32, 33, 37, 38, 41, 43, 44, 45, 46, 47, 48, 49, 50 and 51 thereof) shall (except as otherwise provided in this subsection and except as the Secretary shall by regulation otherwise provided), be applicable to each operator of a coal mine in such State with respect to death or total disability due to pneumoconiosis arising out of employment in such mine. In administering this part, the Secretary is authorized to prescribe in the Federal Register such additional provisions, not inconsistent with those specifically excluded by this subsection, as he deems necessary to provide for the payment of benefits by such operator to persons entitled thereto as provided in this part and thereafter those provisions shall be applicable to such operator.

* * * * *

(e) Conditions upon payment.

No payment of benefits shall be required under this section:

(1) except pursuant to a claim filed therefor in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe;

(2) for any period prior to January 1, 1974; or

(3) for any period after twelve years after December 30, 1969.

(f) Limitation on filing of claims.

(1) Any claim for benefits under this section shall be filed within three years of the discovery of total disability due to pneumoconiosis or, in the case of death due to pneumoconiosis, the date of such death.

(2) Any claim for benefits under this section in the case of a living miner filed on the basis of eligibility under section 921(c)(4) of this title, shall be filed within three years from the date of last exposed employment in a coal mine or, in the case of death from a respiratory or pulmonary impairment for which benefits would be payable under section 921(c)(4) of this title, incurred as the result of employment in a coal mine, shall be filed within fifteen years from the date of last exposed employment in a coal mine.

* * * * *

(h) Applicability of regulations under section 921 of this title; promulgation of regulations.

The regulations of the Secretary of Health, Education, and Welfare promulgated under section 921 of this title shall also be applicable to claims under this section. The Secretary of Labor shall by regulation establish standards, which may include appropriate presumptions, for determining whether pneumoconiosis arose of out of employment in a particular coal mine or mines. The Secretary may also, by regulation, establish standards for apportioning liability for benefits under this subsection among more than one operator, where such apportionment is appropriate.

* * * * *

(As amended Pub. L. 92–303, §§ 3(a), (b), 5(2)–(4), (9), 8, May 19, 1972, 86 Stat. 153, 155–57.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–303, §§ 3(b), 5(2), and 5(9), substituted "a coal mine" for "an underground coal mine", "1973" for "1972" and struck out reference to section 7 of Pub. L. 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), respectively,

Subsec. (e)(2). Pub. L. 92–303, § 5(3), substituted "January 1, 1974" for "January 1, 1973".

Subsec. (e)(3). Pub. L. 92–303, § 5(4), substituted "twelve year" for "seven years".

Subsec. (f). Pub. L. 92–303, § 8, designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 92–303, § 3(a), substituted "coal mine" for "underground coal mine".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsecs. (h) and (a) by section 3(a), (b) of Pub. L. 92–303, respectively, effective Dec. 30, 1969, see section 3(c) of Pub. L. 92–303, set out as a note under section 901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 925, 931, 933, 934, 935 of this title.

§ 933. Duties of operators in States not qualifying under workmen's compensation laws.

(a) Securing of benefits for miners; self-insurers; mutual companies.

During any period in which a State workmen's compensation law is not included on the list published by the Secretary under section 931(b) of this title each operator of a coal mine in such State shall secure the payment of benefits for which he is liable under section 932 of this title by (1) qualifying as a self-insurer in accordance with regulations prescribed by the Secretary, or (2) insuring and keeping insured the payment of such benefits with any stock company or mutual company or association, or with any other person or fund, including any State funds, while such company, association, person or fund is authorized under the laws of any State to insure workmen's compensation.

* * * * *

(As amended Pub. L. 92–303, § 3(b), May 19, 1972, 86 Stat. 153.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–303 substituted "a coal mine" for "an underground coal mine".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–303 effective Dec. 30, 1969, see section 3(c) of Pub. L. 92–303, set out as a note under section 901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 932, 934 of this title.

§ 934. Failure of operators to secure benefits; duties of United States; indemnification.

If a totally disabled miner or a widow, child, parent, brother, or sister is entitled to benefits under section 932 of this title and (1) an operator liable for such benefits has not obtained a policy or contract of insurance, or qualified as a self-insurer, as required by section 933 of this title, or such operator has not paid such benefits within a reasonable time, or (2) there is no operator who was required to secure the payment of such benefits, the Secretary shall pay such miner or such widow, child, parent, brother, or sister the benefits to which he or she is so entitled. In a case referred to in clause (1), the operator shall be liable to the United States in a civil action in an amount equal to the amount paid to such miner or his widow, child, parent, brother, or sister under this subchapter. (As amended Pub. L. 92–303, § 1(c)(1), May 19, 1972, 86 Stat. 151.)

AMENDMENTS

1972—Pub. L. 92–303 substituted "widow, child, parent, brother, or sister" for "widow" wherever appearing therein.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 925 of this title.

§ 936. Regulations and reports.

* * * * *

(b) Annual reports to Congress.

Within 120 days following the convening of each session of Congress the Secretary of Health, Education, and Welfare shall submit to the Congress an annual report upon the subject matter of part B of this subchapter, and, after January 1, 1974, the Secretary of Labor shall also submit such a report upon the subject matter of this part.

* * * * *

(As amended Pub. L. 92–303, § 5(3), May 19, 1972, 86 Stat. 155.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–303 substituted "January 1, 1974" for "January 1, 1973".

§ 937. Contracts for clinics; research and grants for research in pulmonary diseases; appropriation of funds.

(a) The Secretary of Health, Education, and Welfare is authorized to enter into contracts with, and make grants to, public and private agencies and organizations and individuals for the construction, purchase, and operation of fixed-site and mobile clinical facilities for the analysis, examination, and treatment of respiratory and pulmonary impairments in active and inactive coal miners. The Secretary shall coordinate the making of such contracts and grants with the Appalachian Regional Commission.

(b) The Secretary of Health, Education, and Welfare shall initiate research within the National Institute for Occupational Safety and Health, and is authorized to make research grants to public and private agencies and organizations and individuals for the purpose of devising simple and effective tests to measure, detect, and treat respiratory and pulmonary impairments in active and inactive coal miners. Any grant made pursuant to this subsection shall be conditioned upon all information, uses, products, processes, patents, and other developments resulting from such research being available to the general public, except to the extent of such exceptions and limitations as the Secretary of Health, Education, and Welfare may deem necessary in the public interest.

(c) There is hereby authorized to be appropriated for the purpose of subsection (a) of this section $10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975. There are hereby authorized to be appropriated for the purposes of subsection (b) of this section such sums as are necessary. (Pub. L. 91–173, title IV, § 427, as added Pub. L. 92–303, § 5(6), May 19, 1972, 86 Stat. 155.)

§ 938. Prohibition of discrimination by operators of miners suffering from pneumoconiosis; determination by Secretary; procedure; costs and penalties.

(a) No operator shall discharge or in any other way discriminate against any miner employed by him by reason of the fact that such miner is suffering from pneumoconiosis. No person shall cause or attempt to cause an operator to violate this section. For the purposes of this subsection the term "miner" shall not include any person who has been found to be totally disabled.

(b) Any miner who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section, or any representative of such miner may, within ninety days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of Title 5. Each hearing examiner presiding under this section and under the provisions of subchapters I, II and III of this chapter shall receive compensation at a rate not less than that prescribed for GS–16 under section 5332 of Title 5. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person commiting such violation to take such affirmative action as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein.

(c) Whenever an order is issued under this subsection granting relief to a miner at the request of such miner, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by such miner for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation. (Pub. L. 91–173, title IV, § 428, as added Pub. L. 92–303, § 5(7), May 19, 1972, 86 Stat. 155.)

§ 939. Authorization of appropriations.

There is authorized to be appropriated to the Secretary of Labor such sums as may be necessary to carry out his responsibilities under this subchapter. Such sums shall remain available until expended. (Pub. L. 91–173, title IV, § 429, as added Pub. L. 92–303, § 5(8), May 19, 1972, 86 Stat. 156.)

§ 940. Availability of benefits under Black Lung Benefits Act of 1972.

The amendments made by the Black Lung Benefits Act of 1972 to part B of this subchapter shall, to the extent appropriate, also apply to this part: *Provided*, That for the purpose of determining the applicability of the presumption established by section 921(c)(4) of this title to claims filed under this part, no period of employment after June 30, 1971, shall be considered in determining whether a miner was employed at least fifteen years in one or more underground mines. (Pub. L. 91–173, title IV, § 430, as added Pub. L. 92–303, § 5(10), May 19, 1972, 86 Stat. 156.)

REFERENCES IN TEXT

The amendments made by the Black Lung Benefits Act of 1972 to part B of this subchapter, referred to in text, are amendments to sections 921 to 925 of this title by Pub. L. 92–303.

§ 941. Notification to claimants of changes in law.

The Secretary of Health, Education, and Welfare shall, upon enactment of the Black Lung Benefits Act of 1972, generally disseminate to all persons who filed claims under this subchapter prior to May 19, 1972, the changes in the law created by such Act, and forthwith advise all persons whose claims have been denied for any reason or whose claims are pending, that their claims will be reviewed with respect to the provisions of the Black Lung Benefits Act of 1972. (Pub. L. 91–173, title IV, § 431, as added Pub. L. 92–303, § 6, May 19, 1972, 86 Stat. 156.)

REFERENCES IN TEXT

The Black Lung Benefits Act of 1972, referred to in the text, means Pub. L. 92–303, which was approved May 19, 1972. For distribution of such Act in this Code, see Short Title note under section 901 of this title.

SUBCHAPTER V.—ADMINISTRATIVE PROVISIONS

§ 951. Studies and research.

* * * * *

(e) Authorization of appropriations.

There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out his responsibilities under this section and section 861(b) of this title at an annual rate of not to exceed $20,000,000 for the fiscal year ending June 30, 1970, $25,000,000 for the fiscal year ending June 30, 1971, and $30,000,000 for the fiscal year ending June 30, 1973, and for each succeeding fiscal year thereafter. There is authorized to be appropriated annually to the Secretary of Health, Education, and Welfare such sums as may be necessary to carry out his responsibilities under this chapter. Such sums shall remain available until expended.

* * * * *

(As amended Pub. L. 92–303, § 5(2), May 19, 1972, 86 Stat. 155.)

AMENDMENTS

1972—Subsec. (e). Pub L. 92–303 substituted "1973" for "1972".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 958 of this title.

§ 958. Annual reports to Congress; contents.

TRANSFER OF FUNCTIONS

All functions vested by law in the Office of Science and Technology and in the Director or Deputy Director of the Office of Science and Technology were transferred to the Director of the National Science Foundation, and the Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of 1962 Reorg. Plan No. 2, was abolished by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, set out in the Appendix to Title 5, Government Organization and Employees.

Chapter 24.—GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION [NEW]

Sec.
1101. Congressional findings.
1102. Definitions.

SUBCHAPTER I.—GEOTHERMAL ENERGY COORDINATION AND MANAGEMENT PROJECT

1121. Formation of Project.
- (a) Establishment.
- (b) Composition; members and chairman.
- (c) Responsibility for geothermal energy research, development, and demonstration program.
- (d) Allocation of functions to certain agencies; loaning of personnel.
- (e) Exclusive authority of the Project.

1122. Program definition.
1123. Resource inventory and assessment program.
1124. Research and development.
1125. Geothermal demonstration plants and projects.
- (a) Design and construction.
- (b) Establishment of demonstration projects.
- (c) Agreements for the cooperative development of facilities for demonstration.
- (d) Construction of demonstration projects without entering into agreements.
- (e) Factors considered for entry into agreements.
- (f) Limits on project costs.
- (g) Disposal of Federal property interests and resource byproducts.

1126. Scientific and technical education.
- (a) Congressional declaration of policy.
- (b) Support of educational programs in science and engineering.
- (c) Selection of programs of education; coordination with National Science Foundation.
- (d) International participation and cooperation.

SUBCHAPTER II.—LOAN GUARANTIES

1141. Establishment of loan guaranty program.
- (a) Congressional declaration of policy.
- (b) Authorization of heads of designated agencies to guarantee loans.
- (c) Extent of guarantee.
- (d) Terms and conditions of guaranties.
- (e) Limits on amounts which can be guaranteed.
- (f) Definition.

1142. Payment of interest.
1143. Period of guaranties and interest assistance.
1144. Geothermal Resources Development Fund.

SUBCHAPTER III.—GENERAL PROVISIONS

1161. Protection of environment.
1162. Annual reports to President and Congress; final reports on terminated projects.
1163. Transfer of functions.
1164. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 sections 5902, 5905.

§ 1101. Congressional findings.

The Congress hereby finds that—

(1) the Nation is currently suffering a critical shortage of environmentally acceptable forms of energy;

(2) the inadequate organizational structures and levels of funding for energy research have limited the Nation's current and future options for meeting energy needs;

(3) electric energy is a clean and convenient form of energy at the location of its use and is the only practicable form of energy in some modern applications, but the demand for electric energy in every region of the United States is taxing all of the alternative energy sources presently available and is projected to increase; some of the sources available for electric power generation are already in short supply, and the development and use of other sources presently involve undesirable environmental impacts;

(4) the Nation's critical energy problems can be solved only if a national commitment is made to dedicate the necessary financial resources, and enlist the cooperation of the private and public sectors, in developing geothermal resources and other nonconventional sources of energy;

(5) the conventional geothermal resources which are presently being used have limited total potential; but geothermal resources which are different from those presently being used, and which have extremely large energy content, are known to exist;

(6) some geothermal resources contain energy in forms other than heat; examples are methane and extremely high pressures available upon release as kinetic energy;

(7) some geothermal resources contain valuable byproducts such as potable water and mineral compounds which should be processed and recovered as national resources;

(8) technologies are not presently available for the development of most of these geothermal resources, but technologies for the generation of electric energy from geothermal resources are potentially economical and environmentally desirable, and the development of geothermal resources offers possibilities of process energy and other nonelectric applications;

(9) much of the known geothermal resources exist on the public lands;

(10) Federal financial assistance is necessary to encourage the extensive exploration, research, and development in geothermal resources which will bring these technologies to the point of commercial application;

(11) the advancement of technology with the cooperation of private industry for the production of useful forms of energy from geothermal resources is important with respect to the Federal responsibility for the general welfare, to facilitate commerce, to encourage productive harmony between man and his environment, and to protect the public interest; and

(12) the Federal Government should encourage and assist private industry through Federal assistance for the development and demonstration

of practicable means to produce useful energy from geothermal resources with environmentally acceptable processes.

(Pub. L. 93–410, § 2, Sept. 3, 1974, 88 Stat. 1079.)

SHORT TITLE

Section 1 of Pub. L. 93–410 provided that: "This Act [enacting this chapter] may be cited as the 'Geothermal Energy Research, Development, and Demonstration Act of 1974'."

§ 1102. Definitions.

For the purposes of this chapter—

(1) the term "geothermal resources" means (A) all products of geothermal processes, embracing indigenous steam, hot water, and brines, (B) steam and other gases, hot water and hot brines, resulting from water, gas, or other fluids artificially introduced into geothermal formations, and (C) any byproduct derived from them;

(2) the term "byproduct" means any mineral or minerals which are found in solution or in association with geothermal resources and which have a value of less than 75 percent of the value of the geothermal steam and associated geothermal resources or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(3) "pilot plant" means an experimental unit of small size used for early evaluation and development of new or improved processes and to obtain technical, engineering, and cost data;

(4) "demonstration plant" means a complete facility which produces electricity, heat energy, or useful byproducts for commercial disposal from geothermal resources and which will make a significant contribution to the knowledge of full-size technology, plant operation, and process economics;

(5) the term "Project" means the Geothermal Energy Coordination and Management Project established by section 1121(a) of this title;

(6) the term "fund" means the Geothermal Resources Development Fund established by section 1144(a) of this title; and

(7) the term "Chairman" means the Chairman of the Project.

(Pub. L. 93–410, § 3, Sept. 3, 1974, 88 Stat. 1080.)

SUBCHAPTER I.—GEOTHERMAL ENERGY COORDINATION AND MANAGEMENT PROJECT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1161 of this title.

§ 1121. Formation of project.

(a) Establishment.

There is hereby established the Geothermal Energy Coordination and Management Project.

(b) Composition; members and chairman.

(1) The Project shall be composed of six members as follows:

(A) one appointed by the President;

(B) an Assistant Director of the National Science Foundation;

(C) an Assistant Secretary of the Department of the Interior;

(D) an Associate Administrator of the National Aeronautics and Space Administration;

(E) the General Manager of the Atomic Energy Commission; and

(F) an Assistant Administrator of the Federal Energy Administration.

(2) The President shall designate one member of the Project to serve as Chairman of the Project.

(3) If the individual appointed under paragraph (1)(A) of this subsection is an officer or employee of the Federal Government, he shall receive no additional pay on account of his service as a member of the Project. If such individual is not an officer or employee of the Federal Government, he shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for level IV of the Executive Schedule (section 5315 of Title 5) for each day (including traveltime) during which he is engaged in the actual performance of duties vested in the Project.

(c) Responsibility for geothermal energy research, development, and demonstration program.

The Project shall have overall responsibility for the provision of effective management and coordination with respect to a national geothermal energy research, development, and demonstration program. Such program shall include—

(1) the determination and evaluation of the resource base;

(2) research and development with respect to exploration, extraction, and utilization technologies;

(3) the demonstration of appropriate technologies; and

(4) the loan guaranty program under subchapter II of this chapter.

(d) Allocation of functions to certain agencies; loaning of personnel.

(1) The Project shall carry out its responsibilities under this section acting through the following Federal agencies:

(A) the Department of the Interior, the responsibilities of which shall include evaluation and assessment of the resource base, including development of exploration technologies;

(B) the National Aeronautics and Space Administration, the responsibilities of which shall include the provision of contract management capability, evaluation and assessment of the resource base, and the development of technologies pursuant to section 1122(b) of this title;

(C) the Atomic Energy Commission, the responsibilities of which shall include the development of technologies; and

(D) the National Science Foundation, the responsibilities of which shall include basic and applied research.

(2) Upon request of the Project, the head of any such agency is authorized to detail or assign, on a reimbursable basis or otherwise, any of the personnel of such agency to the Project to assist it in carrying out its responsibilities under this chapter.

(e) Exclusive authority of the Project.

The Project shall have exclusive authority with respect to the establishment or approval of programs or projects initiated under this chapter, except that

the agency involved in any particular program or project shall be responsible for the operation and administration of such program or project. (Pub. L. 93–410, title I, § 101, Sept. 3, 1974, 88 Stat. 1080.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1102 of this title.

§ 1122. Program definition.

(a) (1) The Chairman, acting through the Administrator of the National Aeronautics and Space Administration, is authorized and directed to prepare a comprehensive program definition of an integrated effort and commitment for effectively developing geothermal energy resources. Such Administrator, in preparing such comprehensive program definition, is authorized to consult with other Federal agencies and non-Federal entities.

(2) The Chairman shall transmit such comprehensive program definition to the President and to each House of the Congress. Interim reports shall be transmitted not later than November 30, 1974, and not later than January 31, 1975. Such comprehensive program definition shall be transmitted as soon as possible thereafter, but in any case not later than August 31, 1975.

(3) As part of the comprehensive program definition required by paragraph (1) of this subsection, the Chairman, acting through the Geological Survey, shall transmit to the President and to each House of the Congress a schedule and objectives for the inventorying of geothermal resources.

(b) The National Aeronautics and Space Administration is authorized to undertake and carry out those programs assigned to it by the Project. (Pub. L. 93–410, title I, § 102, Sept. 3, 1974, 88 Stat. 1081.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1121, 1164 of this title.

§ 1123. Resource inventory and assessment program.

(a) The Chairman shall initiate a resource inventory and assessment program with the objective of making regional and national appraisals of all types of geothermal resources, including identification of promising target areas for industrial exploration and development. The specific goals shall include—

(1) the improvement of geophysical, geochemical, geological, and hydrological techniques necessary for locating and evaluating geothermal resources;

(2) the development of better methods for predicting the power potential and longevity of geothermal reservoirs;

(3) the determination and assessment of the nature and power potential of the deeper unexplored parts of high temperature geothermal convection systems; and

(4) the survey and assessment of regional and national geothermal resources of all types.

(b) The Chairman, acting through the Geological Survey and other appropriate agencies, shall—

(1) develop and carry out a general plan for the orderly inventorying of all forms of geothermal resources of the Federal lands and, where consistent with property rights and determined by the Chairman to be in the national interest, of non-Federal lands;

(2) conduct regional surveys, based upon such a general plan, using innovative geological, geophysical, geochemical, and stratagraphic drilling techniques, which will lead to a national inventory of geothermal resources in the United States;

(3) publish and make available maps, reports, and other documents developed from such surveys to encourage and facilitate the commercial development of geothermal resources for beneficial use and consistent with the national interest;

(4) make such recommendations for legislation as may from time to time appear to be necessary to make Federal leasing policy for geothermal resources consistent with known inventories of various resource types, with the current state of technologies for geothermal energy development, and with current evaluations of the environmental impacts of such development; and

(5) participate with appropriate Federal agencies and non-Federal entities in research to develop, improve, and test technologies for the discovery and evaluation of all forms of geothermal resources, and conduct research into the principles controlling the location, occurrence, size, temperature, energy content, producibility, and economic lifetimes of geothermal reservoirs.

(Pub. L. 93–410, title I, § 103, Sept. 3, 1974, 88 Stat. 1082.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1126 of this title.

§ 1124. Research and development.

(a) The Chairman, acting through the appropriate Federal agencies and in cooperation with non-Federal entities, shall initiate a research and development program for the purpose of resolving all major technical problems inhibiting the fullest possible commercial utilization of geothermal resources in the United States. The specific goals of such programs shall include—

(1) the development of effective and efficient drilling methods to operate at high temperatures in formations of geothermal interest;

(2) the development of reliable predictive methods and control techniques for the production of geothermal resources from reservoirs;

(3) the exploitation of new concepts for fracturing rock to permit recovery of contained heat reserves;

(4) the improvement of equipment and technology for the extraction of geothermal resources from reservoirs;

(5) the development of improved methods for converting geothermal resources and byproducts to useful forms;

(6) the development of improved methods for controlling emissions and wastes from geothermal utilization facilities, including new monitoring methods to any extent necessary;

(7) the development and evaluation of waste disposal control technologies and the evaluation of surface and subsurface environmental effects of geothermal development;

(8) the improvement of the technical capability to predict environmental impacts resulting from the development of geothermal resources, the preparation of environmental impact statements, and the assuring of compliance with applicable standards and criteria;

(9) the identification of social, legal, and economic problems associated with geothermal development (both locally and regionally) for the purpose of developing policy and providing a framework of policy alternatives for the commercial utilization of geothermal resources;

(10) the provision for an adequate supply of scientists to perform required geothermal research and development activities; and

(11) the establishment of a program to encourage States to establish and maintain geothermal resources clearinghouses, which shall serve to (A) provide geothermal resources developers with information with respect to applicable local, State, and Federal laws, rules, and regulations, (B) coordinate the processing of permit applications, impact statements, and other information which geothermal resources developers are required to provide, (C) encourage uniformity with respect to local and State laws, rules, and regulations with respect to geothermal resources development, and (D) encourage establishment of land use plans, which would include zoning for geothermal resources development and which would assure that geothermal resources developers will be able to carry out development programs to the production stage.

(b) The Chairman, acting through the appropriate Federal agencies and in cooperation with non-Federal entities, shall implement a coordinated program of research and development in order to demonstrate the technical means for the extraction and utilization of the resource base, including any by-products of such base, and in order to accomplish the goals established by subsection (a) of this section. Research authorized by this chapter having potential applications in matters other than geothermal energy may be pursued to the exent that the findings of such research can be published in a form for utilization by others. (Pub. L. 93–410, title I, § 104, Sept. 3, 1974, 88 Stat. 1083.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1126 of this title.

§ 1125. Geothermal demonstration plants and projects.

(a) Design and construction.

The Chairman, acting through the appropriate Federal agencies and in cooperation with non-Federal entities, shall initiate a program to design and construct geothermal demonstration plants. The specific goals of such program shall include—

(1) the development of economical geothermal resources production systems and components which meet environmental standards;

(2) the design of plants to produce electric power and, where appropriate, the large-scale production and utilization of any useful by-products;

(3) the involvement of engineers, analysts, technicians, and managers from industry field and powerplant development, which shall lead to the early industrial exploitation of advanced geothermal resources;

(4) the provision for an adequate supply of trained geothermal engineers and technicians;

(5) the provision of experimental test beds for component testing an evaluation by laboratories operated by the Federal Government, industry, or institutions of higher education;

(6) the construction and operation of pilot plants; and

(7) the construction and operation of demonstration plants.

(b) Establishment of demonstration projects.

In carrying out his responsibilities under this section, the Chairman, acting through the appropriate Federal agencies, and in cooperation with non-Federal entities, may provide for the establishment of one or more demonstration projects utilizing each geothermal resource base involved, which shall include, as appropriate, all of the exploration, siting, drilling, pilot plant construction and operation, demonstration plant construction and operation, and other facilities and activities which may be necessary for the generation of electric energy and the utilization of geothermal resource byproducts.

(c) Agreements for the cooperative development of facilities for demonstration.

The Chairman, acting through the appropriate Federal agencies, is authorized to investigate and enter into agreements for the cooperative development of facilities to demonstrate the production of energy from geothermal resources. The responsible Federal agency may consider—

(1) cooperative agreements with utilities and non-Federal governmental entities for construction of facilities to produce energy for commercial disposition; and

(2) cooperative agreements with other Federal agencies for the construction and operation of facilities to produce energy for direct Federal consumption.

(d) Construction of demonstration projects without entering into agreements.

The responsible Federal agency is authorized to investigate the feasibility of, construct, and operate, demonstration projects without entering into cooperative agreements with respect to such projects, if the Chairman finds that—

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or any other significant factor of the proposal offers opportunities to make important contributions to the general knowledge of geothermal resources, the techniques of its development, or public confidence in the technology; and

(2) there is no opportunity for cooperative agreements with any utility or non-Federal governmental entity willing and able to cooperate in the demonstration project under subsection (c)(1) of this section, and there is no opportunity for cooperative agreements with other Federal agencies under subsection (c)(2) of this section.

(e) Factors considered for the entry into agreements.

Before favorably considering proposals under subsection (c) of this section, the responsible Federal agency must find that—

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or any other significant factor of the proposal offers opportunities to make important contributions to the general knowledge of geothermal resources, the techniques of its development, or public confidence in the technology;

(2) the development of the practical benefits as set forth in paragraph (1) of this subsection are unlikly to be accomplished without such cooperative development; and

(3) where non-Federal participants are involved, the proposal is not eligible for adequate Federal assistance under the loan guaranty provisions of subchapter II of this chapter.

(f) Limits on project costs.

If the estimate of the Federal investment with respect to construction and operation costs of any demonstration project proposed to be established under this section exceeds $10,000,000, no amount may be appropriated for such project except as specifically authorized by legislation hereafter enacted by the Congress.

(g) Disposal of Federal property interests and resource byproducts.

(1) At the conclusion of the program under this section or as soon thereafter as may be practicable, the responsible Federal agencies shall, by sale, lease, or otherwise, dispose of all Federal property interests which they have acquired pursuant to this section (including mineral rights) in accordance with existing law and the terms of the cooperative agreements involved.

(2) The agency involved shall, under appropriate agreements or other arrangements, provide for the disposition of geothermal resource byproducts of the project administered by such agency. (Pub. L. 93–410, title I, § 105, Sept. 3, 1974, 88 Stat. 1084.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1126, 1162 of this title.

§ 1126. Scientific and technical education.

(a) Congressional declaration of policy.

It is the policy of the Congress to encourage the development and maintenance of programs through which there may be provided the necessary trained personnel to perform required geothermal research, development, and demonstration activities under sections 1123, 1124, and 1125 of this title.

(b) Support of educational programs in science and engineering.

The National Science Foundation is authorized to support programs of education in the sciences and engineering to carry out the policy of subsection (a) of this section. Such support may include fellowships traineeships, technical training programs, technologist training programs, and summer institute programs.

(c) Selection of programs of education; coordination with National Science Foundation.

The National Science Foundation is authorized and directed to coordinate its actions, to the maximum extent practicable, with the Project or any permanent Federal organization or agency having jurisdiction over the energy research and development functions of the United States, in determining the optimal selection of programs of education to carry out the policy of subsection (a) of this section.

(d) International participation and cooperation.

The National Science Foundation is authorized to encourage, to the maximum extent practicable international participation and cooperation in the development and maintenance of programs of education to carrying out the policy of subsection (a) of this section. (Pub. L. 93–410, title I, § 106, Sept. 3, 1974, 88 Stat. 1085.)

TRANSFER OF FUNCTIONS

Functions of the National Science Foundation relating to or are utilized in connection with geothermal power development transferred and vested in the Administrator, Energy Research and Development Administration, see section 5814(f) of Title 42, The Public Health and Welfare.

SUBCHAPTER II.—LOAN GUARANTIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1121, 1125, 1164 of this title.

§ 1141. Establishment of loan guaranty program.

(a) Congressional declaration of policy.

It is the policy of the Congress to encourage and assist in the commercial development of practicable means to produce useful energy from geothermal resources with environmentally acceptable processes. Accordingly, it is the policy of the Congress to facilitate such commercial development by authorizing the Chairman of the Project to designate an appropriate Federal agency to guarantee loans for such purposes.

(b) Authorization of heads of designated agencies to guarantee loans.

In order to encourage the commercial production of energy from geothermal resources, the head of the designated agency is authorized to, in consultation with the Secretary of the Treasury, guarantee, and to enter into commitments to guarantee, lenders against loss of principal or interest on loans made by such lenders to qualified borrowers for the purposes of—

(1) the determination and evaluation of the resource base;

(2) research and development with respect to extraction and utilization technologies;

(3) acquiring rights in geothermal resources; or

(4) development, construction, and operation of facilities for the demonstration or commercial production of energy from geothermal resources.

(c) Extent of guarantee.

Any guaranty under this subchapter shall apply only to so much of the principal amount of any loan as does not exceed 75 percent of the aggregate cost of the project with respect to which the loan is made.

(d) Terms and conditions of guaranties.

Loan guaranties under this subchapter shall be on such terms and conditions as the head of the designated agency determines, except that a guaranty shall be made under this subchapter only if—

(1) the loan bears interest at a rate not to exceed such annual per centum on the principal obligation outstanding as the head of the designated agency determines to be reasonable, taking into account the range of interest rates prevailing in the private sector for similar loans and risks by the United States;

(2) the terms of such loan require full repayment over a period not to exceed thirty years, or the useful life of any physical asset to be financed by such loan, whichever is less (as determined by the head of the designated agency);

(3) in the judgment of the head of the designated agency, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will be sufficient to carry out the project; and

(4) in the judgment of the head of the designated agency, there is reasonable assurance of repayment of the loan by the qualified borrower of the guaranteed indebtedness.

(e) Limits on amounts which can be guaranteed.

The amount of the guaranty for any loan for a project shall not exceed $25,000,000, and the amount of the guaranty for any combination of loans for any single qualified borrower shall not exceed $50,000,000.

(f) Definition.

As used in this subchapter, the term "qualified borrower" means any public or private agency, institution, association, partnership, corporation, political subdivision, or other legal entity which (as determined by the head of the designated agency) has presented satisfactory evidence of an interest in geothermal resources and is capable of performing research or completing the development and production of energy in an acceptable manner. (Pub. L. 93–410, title II, § 201, Sept. 3, 1974, 88 Stat 1086.)

§ 1142. Payment of interest.

(a) With respect to any loan guaranteed pursuant to this subchapter, the head of the designated agency is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the interest charges which become due and payable on the unpaid balance of any such loan if the head of the designated agency finds—

(1) that the borrower is unable to meet interest charges, and that it is in the public interest to permit the borrower to continue to pursue the purposes of his project, and that the probable net cost to the Federal Government in paying such interest will be less than that which would result in the event of a default; and

(2) the amount of such interest charges which the head of the designated agency is authorized to pay shall be no greater than the amount of interest which the borrower is obligated to pay under the loan agreement.

(b) In the event of any default by a qualified borrower on a guaranteed loan, the head of the designated agency is authorized to make payment in accordance with the guaranty, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of interest under subsection (a) of this section) from such assets of the defaulting borrower as are associated with the project, or from any other surety included in the terms of the guaranty. (Pub. L. 93–410, title II, § 202, Sept. 3, 1974, 88 Stat. 1087.)

Section Referred to in Other Sections

This section is referred to in section 1144 of this title.

§ 1143. Period of guaranties and interest assistance.

No loan guaranties shall be made, or interest assistance contract entered into, pursuant to this subchapter, after the expiration of the ten-calendar-year period following September 3, 1974. (Pub. L. 93–410, title II, § 203, Sept. 3, 1974, 88 Stat. 1087.)

Section Referred to in Other Sections

This section is referred to in section 1144 of this title.

§ 1144. Geothermal Resources Development Fund.

(a) There is established in the Treasury of the United States a Geothermal Resources Development Fund, which shall be available to the head of the designated agency for carrying out the loan guaranty and interest assistance program authorized by this subchapter, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

(b) There shall be paid into the fund the amounts appropriated pursuant to section 1164(c) of this title and such amounts as may be returned to the United States pursuant to section 1142(b) of this title, and the amounts in the fund shall remain available until expended, except that after the expiration of the ten-year period established by section 1143 of this title, such amounts in the fund which are not required to secure outstanding guaranty obligations shall be paid into the general fund of the Treasury.

(c) Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the head of the designated agency annually upon the completion of an appropriate accounting period. (Pub. L. 93–410, title II, § 204, Sept. 3, 1974, 88 Stat. 1087.)

Section Referred to in Other Sections

This section is referred to in section 1102 of this title.

SUBCHAPTER III.—GENERAL PROVISIONS

§ 1161. Protection of environment.

In the conduct of its activities, the Project and any participating public or private persons or agencies shall place particular emphasis upon the objective of assuring that the environment and the safety of persons or property are effectively protected; and the program under subchapter I of this chapter shall include such special research and development as may be necessary for the achievement of that objective. (Pub. L. 93–410, title III, § 301, Sept. 3, 1974, 88 Stat. 1088.)

§ 1162. Annual reports to President and Congress; final reports on terminated projects.

(a) The Chairman of the Project shall submit to the President and the Congress full and complete annual reports of the activities of the Project, including such projections and estimates as may be necessary to evaluate the progress of the national geothermal energy research, development and demonstration program and to provide the basis for as accurate a judgment as is possible concerning the extent to which the objectives of this chapter will have been achieved by June 30, 1980.

(b) No later than one year after the termination of each demonstration project under section 1125 of this title, the Chairman of the Project shall submit to the President and the Congress a final report on the activities of the Project related to each project, including his recommendations with respect to any further legislative, administrative, and other actions which should be taken in support of the objectives of this chapter. (Pub. L. 93–410, title III, § 302, Sept. 3, 1974, 88 Stat. 1088.)

§ 1163. Transfer of functions.

(a) Within sixty days after the effective date of the law creating a permanent Federal organization or agency having jurisdiction over the energy research and development functions of the United States (or within sixty days after September 3, 1974 if the effective date of such law occurs prior to September 3, 1974), all of the research, development, and demonstration functions (including the loan guaranty program) vested in the Project under this chapter, along with related records, documents, personnel, obligations, and other items to the extent necessary or appropriate, shall, in accordance with regulations prescribed by the Office of Management and Budget, be transferred to and vested in such organization or agency.

(b) Upon the establishment of a permanent Federal organization or agency having jurisdiction over the energy research and development functions of the United States, and when all research and development (and other) functions of the Project are transferred, the members of the Project may provide advice and counsel to the head of such organization or agency, in accordance with arrangements made at that time. (Pub. L. 93–410, title III, § 303, Sept. 3, 1974, 88 Stat. 1088.)

§ 1164. Authorization of appropriations.

(a) For the fiscal years ending June 30, 1976, and September 30, 1977, 1978, 1979, and 1980, only such sums may be appropriated as the Congress may hereafter authorize by law.

(b) There are authorized to be appropriated to the National Aeronautics and Space Administration not to exceed $2,500,000 for the fiscal year ending June 30, 1975, for the purpose of preparing the program definition under section 1122(a) of this title.

(c) In addition to sums authorized to be appropriated by subsection (b) of this section, there are authorized to be appropriated to the fund not to exceed $50,000,000 annually, such sums to carry out the provisions of the loan guaranty program by the Project under subchapter II of this chapter. (Pub. L. 93–410, title III, § 304, Sept. 3, 1974, 88 Stat. 1089.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1144 of this title.